



September 18, 2002

The Honorable John D. Dingell  
U.S. House of Representatives  
2328 Rayburn House Office Building  
Washington, DC

Dear Congressman Dingell:

On behalf of the Investment Company Institute<sup>1</sup>, I am writing to express our strong opposition to Section 136 of the latest circulating House proffer on H.R. 4, the "Securing America's Future Energy Act." Section 136 would create a loophole in the Investment Company Act and is designed to benefit one company.

The provision would permit this company, and perhaps others, to operate as a mutual fund, but be completely free of SEC regulation under the Investment Company Act.

The SEC, in its February 2002 memorandum on the original version of the provision, warned the House Energy and Commerce Committee that "there may be hundreds of unregulated investment companies that would result." The Investment Company Institute sees no fundamental difference in effect between the original version and the current version.

The SEC has the regulatory authority to provide such an exemption and an exemptive application is pending with regard to the company at issue. Legislating a statutory exemption for one specific company could have unintended, negative consequences for investors.

Section 136 should be deleted in its entirety. Thank you for considering our views.

Sincerely,

A handwritten signature in cursive script, reading 'Matthew P. Fink'.

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<sup>1</sup> The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,973 open-end investment companies ("mutual funds"), 514 closed-end investment companies and 6 sponsors of unit investment trusts. Its mutual fund members have assets of about \$6.363 trillion, accounting for approximately 95% of total industry assets, and over 87.8 million individual shareholders.